

**Senator Curtis S. Bramble** proposes the following substitute bill:

**RAILROAD CROSSING MAINTENANCE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the duties of the Public Service Commission and the Department of Transportation pertaining to safety oversight of railroads and crossings.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to the duties of the Public Service Commission and the Department of Transportation pertaining to safety oversight of railroads and crossings to remove confusion caused by outdated references;
- ▶ allows the Department of Transportation to allocate the costs of certain safety responsibilities between the relevant public agency and the railroad;
- ▶ amends other provisions related to the safety and maintenance of railroads and crossings;
- ▶ amends provisions related to railroad company participation and approval of proposed improvements to a railroad crossing;
- ▶ modifies provisions related to state sales tax on fuel for locomotive engines and directs revenue to the Rail Transportation Restricted Account; and
- ▶ makes technical changes.



**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:****54-1-2**, as last amended by Laws of Utah 1987, Chapter 92**54-2-1**, as last amended by Laws of Utah 2020, Chapter 217**54-3-8**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4**54-4-1**, as last amended by Laws of Utah 1975, First Special Session, Chapter 9**54-4-2**, as last amended by Laws of Utah 2019, Chapter 460**54-4-14**, as last amended by Laws of Utah 1975, First Special Session, Chapter 9**54-4-15**, as last amended by Laws of Utah 1999, Chapter 190**59-12-103**, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411**72-2-131**, as last amended by Laws of Utah 2021, Chapter 387

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **54-1-2** is amended to read:**54-1-2. Powers and duties.**

(1) The Public Service Commission shall succeed to all powers and discharge all duties and perform all the functions which by existing and continuing law are conferred upon and required to be discharged or performed by the Public Utilities Commission of Utah.

(2) Whenever any existing and continuing law refers to or names the Public Utilities Commission of Utah or any officer, agent, or employee of such commission, the same shall be construed to mean, refer to, and name the Public Service Commission of Utah or the corresponding officer, agent, or employee of such Public Service Commission[; ~~provided, however, that the Department of Transportation shall have jurisdiction over those safety functions transferred to it by the Department of Transportation Act~~].

Section 2. Section **54-2-1** is amended to read:**54-2-1. Definitions.**

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(4) "Commission" means the Public Service Commission.

(5) "Commissioner" means a member of the commission.

(6) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(7) "Department" means the Department of Transportation created in Section [72-1-201](#).

~~[(7)]~~ (8) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

~~[(8)]~~ (9) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or

managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

~~[(9)]~~ (10) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

~~[(10)]~~ (11) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

~~[(11)]~~ (12) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection ~~[(10)]~~ (11)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

~~[(12)]~~ (13) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

150           ~~[(13)]~~ (14) "Gas plant" includes all real estate, fixtures, and personal property owned,  
151 controlled, operated, or managed in connection with or to facilitate the production, generation,  
152 transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

153           ~~[(14)]~~ (15) "Heat corporation" includes every corporation and person, their lessees,  
154 trustees, and receivers, owning, controlling, operating, or managing any heating plant for public  
155 service within this state.

156           ~~[(15)]~~ (16) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances,  
157 and personal property controlled, operated, or managed in connection with or to facilitate the  
158 production, generation, transmission, delivery, or furnishing of artificial heat.

159           (b) "Heating plant" does not include either small power production facilities or  
160 cogeneration facilities.

161           ~~[(16)]~~ (17) "Independent energy producer" means every electrical corporation, person,  
162 corporation, or government entity, their lessees, trustees, or receivers, that own, operate,  
163 control, or manage an independent power production or cogeneration facility.

164           ~~[(17)]~~ (18) "Independent power production facility" means a facility that:

165           (a) produces electric energy solely by the use, as a primary energy source, of biomass,  
166 waste, a renewable resource, a geothermal resource, or any combination of the preceding  
167 sources; or

168           (b) is a qualifying power production facility.

169           ~~[(18)]~~ (19) "Large-scale electric utility" means a public utility that provides retail  
170 electric service to more than 200,000 retail customers in the state.

171           ~~[(19)]~~ (20) "Large-scale natural gas utility" means a public utility that provides retail  
172 natural gas service to more than 200,000 retail customers in the state.

173           ~~[(20)]~~ (21) "Nonutility energy supplier" means a person that:

174           (a) has received market-based rate authority from the Federal Energy Regulatory  
175 Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate  
176 Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

177           (b) owns, leases, operates, or manages an electric plant that is an electric generation  
178 plant that:

179           (i) has a capacity of greater than 100 megawatts; and

180           (ii) is hosted on the site of an eligible customer that consumes the output of the electric

plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

~~[(21)]~~ (22) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

~~[(22)]~~ (23) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility

under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [~~(22)~~] (23) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [~~(22)~~] (23)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [~~(22)~~] (23)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [~~(22)~~] (23)(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric



plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(i) "Public utility" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from a large-scale electric utility or an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) "Public utility" does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

~~[(23)]~~ (24) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the

Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

~~[(24)]~~ (25) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

~~[(25)]~~ (26) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

~~[(26)]~~ (27) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

~~[(27)]~~ (28) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

~~[(28)]~~ (29) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(29)]~~ (30) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line

for public service within this state.

~~[(30)]~~ (31) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

~~[(31)]~~ (32) "Telephone cooperative" means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation's members and the public at cost plus a reasonable rate of return.

~~[(32)]~~ (33) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

~~[(33)]~~ (34) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(34)]~~ (35) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

~~[(35)]~~ (36) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

[~~(36)~~] (37) "Utility-owned vehicle charging infrastructure" means all facilities, equipment, and electrical systems owned and installed by a large-scale electric utility:

(a) on the customer's side or the large-scale electric utility's side of the electricity metering equipment; and

(b) to facilitate utility vehicle charging service or other electric vehicle battery charging service.

[~~(37)~~] (38) "Utility vehicle charging service" means the furnishing of electricity:

(a) to an electric vehicle battery charging station;

(b) by a public utility in whose service area the charging station is located; and

(c) pursuant to a duly established tariff for rates, charges, and conditions of service for the electricity.

[~~(38)~~] (39) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(39)~~] (40) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

[~~(40)~~] (41) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 3. Section **54-3-8** is amended to read:

**54-3-8. Preferences forbidden -- Power of commission to determine facts --**

**Applicability of section.**

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection [~~54-2-1(8)(b)(iii) or (iv), (20), or (22)(h)~~] 54-2-1(9)(b)(iii) or (iv), (21), or (23)(h), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section **54-4-1** is amended to read:

**54-4-1. General jurisdiction.**

The commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of the business of every such public utility in this state, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction; provided, however, that the Department of Transportation shall have jurisdiction over [~~those safety functions transferred to it by the Department of Transportation Act~~] safety functions of public utilities as granted by Subsections 54-4-15(1) through (3) and in Title 72, Transportation Code.

Section 5. Section **54-4-2** is amended to read:

**54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.**

(1) (a) The commission may conduct an investigation if the commission determines an

investigation:

(i) is necessary to secure compliance with this title or with an order of the commission;

(ii) is in the public interest; or

(iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility.

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

(i) establish a time and place for a hearing;

(ii) provide notice to the public utility concerning the investigation; and

(iii) make findings and orders that are just and reasonable with respect to the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection ~~[54-2-1(8)(b)(iii) or (iv), (20), or (22)(i)]~~ 54-2-1(9)(b)(iii) or (iv), (21), or (23)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 6. Section **54-4-14** is amended to read:

**54-4-14. Safety regulation.**

The commission shall have power, by general or special orders, rules or regulations, or otherwise, to require every public utility to construct, maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances including interlocking and other protective devices at grade crossings or junctions, and block or other system of signaling, and to establish uniform or other standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, passengers, customers or the public may demand, provided, however, that the department of transportation shall have jurisdiction over ~~[those safety functions transferred to it by the Department of Transportation Act]~~ safety functions of public utilities as granted by Subsections 54-4-15(1) through (3) and in Title 72, Transportation

Code.

Section 7. Section **54-4-15** is amended to read:

**54-4-15. Establishment and regulation of grade crossings.**

(1) (a) No track of any railroad shall be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without the permission of the Department of Transportation having first been secured; provided, that this subsection shall not apply to the replacement of lawfully existing tracks.

(b) The department shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

(2) The department shall have the power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad or vice versa, and to alter or abolish any such crossing, to restrict the use of such crossings to certain types of traffic in the interest of public safety and is vested with power and it shall be its duty to designate the railroad crossings to be traversed by school buses and motor vehicles carrying passengers for hire, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality or other public authority in interest.

(3) (a) The department shall allocate responsibility for the costs of maintenance of railroad crossings, including maintenance of safety devices and crossing materials, between the railroad and the public agency involved.

(b) The department's allocation may be based on ownership and control of the right-of-way, crossing materials, signals and devices, or other factors as appropriate to protect the public safety.

460 (c) The allocation of maintenance responsibilities for the costs of a railroad crossing  
461 shall be determined by the department unless a written request for review of the determination  
462 for a specific railroad crossing is made to the department, in which case the department shall  
463 conduct a review of the maintenance allocations for the railroad crossing, and may modify the  
464 allocation.

465 (d) Responsibility for the costs of maintenance as determined by the department shall  
466 not be subject to modification or waiver by agreement between the railroad and the highway  
467 authority without department approval.

468 (e) Physical maintenance and labor performed on an at-grade railroad crossing shall:

469 (i) be reserved to the railroad;

470 (ii) be performed by railroad employees; and

471 (iii) comply with Code of Federal Regulations, Title 49, Transportation.

472 (4) (a) Railroad crossing improvements and new crossings which are funded solely by  
473 non-federal funds may be required or authorized by the department based on a determination  
474 that the improvement or new crossing will improve the overall safety of the public, which  
475 determination shall be made after coordination with the railroad, affected highway authority,  
476 and communities in accordance with requirements established to determine the need, design,  
477 and impacts of the new or improved crossing.

478 (b) The railroad company affected by the improvement shall timely enter into a written  
479 agreement with the department to design and install improvements as determined necessary.

480 (c) If a railroad company does not make reasonable efforts to participate in determining  
481 the need, design, and impacts of a new or improved crossing, does not timely enter into an  
482 agreement with the department, or fails to timely provide a design and install improvements as  
483 determined necessary, the department may impose and the railroad shall pay a penalty  
484 consistent with Section [54-7-25](#).

485 (5) A railroad company affected by a new or improved railroad crossing may not  
486 require up-front payment of costs as a condition for the railroad company's review, approval,  
487 and inspection of a new or improved railroad crossing.

488 ~~[(3)]~~ (6) Whenever the department shall find that public convenience and necessity  
489 demand the establishment, creation or construction of a crossing of a street or highway over,  
490 under or upon the tracks or lines of any public utility, the department may by order, decision,



rule or decree require the establishment, construction or creation of such crossing, and such crossing shall thereupon become a public highway and crossing.

~~[(4)]~~ (7) (a) The commission retains exclusive jurisdiction for the resolution of any dispute upon petition by any person aggrieved by any action of the department pursuant to this section, except as provided under Subsection ~~[(4)]~~ (7)(b).

(b) If a petition is filed by a person or entity engaged in a subject activity, as defined in Section 19-3-318, the commission's decision under Subsection ~~[(4)]~~ (7)(a) regarding resolution of a dispute requires the concurrence of the governor and the Legislature in order to take effect.

(c) The department may:

(i) direct commencement of an action as provided for in Section 54-7-24 in the name of the state to stop or prevent a violation of a department order issued to protect public safety by a railroad company, person, or entity; and

(ii) petition the commission to assess and bring an action as provided for in Section 54-7-21 to recover penalties for failure of a railroad company, person, or entity to comply with a final order of the department issued pursuant to the department's authority under this section.

Section 8. Section 59-12-103 is amended to read:

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

- 522 (i) gas;  
523 (ii) electricity;  
524 (iii) heat;  
525 (iv) coal;  
526 (v) fuel oil; or  
527 (vi) other fuels;  
528 (d) sales of the following for residential use:  
529 (i) gas;  
530 (ii) electricity;  
531 (iii) heat;  
532 (iv) coal;  
533 (v) fuel oil; or  
534 (vi) other fuels;  
535 (e) sales of prepared food;  
536 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
537 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
538 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
539 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
540 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
541 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
542 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
543 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
544 exhibition, cultural, or athletic activity;  
545 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
546 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:  
547 (i) the tangible personal property; and  
548 (ii) parts used in the repairs or renovations of the tangible personal property described  
549 in Subsection (1)(g)(i), regardless of whether:  
550 (A) any parts are actually used in the repairs or renovations of that tangible personal  
551 property; or  
552 (B) the particular parts used in the repairs or renovations of that tangible personal

property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

584 State Sales and Use Tax Act; and

585 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
586 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
587 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
588 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

589 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
590 transaction under this chapter other than this part.

591 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a  
592 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
593 the sum of:

594 (i) a state tax imposed on the transaction at a tax rate of 2%; and

595 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
596 transaction under this chapter other than this part.

597 (c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are  
598 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

599 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
600 a tax rate of 1.75%; and

601 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
602 amounts paid or charged for food and food ingredients under this chapter other than this part.

603 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
604 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
605 a rate of ~~[4.85%]~~ 7.35%.

606 (e) (i) For a bundled transaction that is attributable to food and food ingredients and  
607 tangible personal property other than food and food ingredients, a state tax and a local tax is  
608 imposed on the entire bundled transaction equal to the sum of:

609 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

610 (I) the tax rate described in Subsection (2)(a)(i)(A); and

611 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
612 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
613 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
614 Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);

708 (C) Subsection (2)(c)(i); or  
 709 (D) Subsection (2)(e)(i)(A)(I).  
 710 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 711 the commission may by rule define the term "catalogue sale."  
 712 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine  
 713 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the  
 714 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.  
 715 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
 716 or other fuel is furnished through a single meter for two or more of the following uses:  
 717 (A) a commercial use;  
 718 (B) an industrial use; or  
 719 (C) a residential use.  
 720 (3) (a) The following state taxes shall be deposited into the General Fund:  
 721 (i) the tax imposed by Subsection (2)(a)(i)(A);  
 722 (ii) the tax imposed by Subsection (2)(b)(i);  
 723 (iii) the tax imposed by Subsection (2)(c)(i); and  
 724 (iv) the tax imposed by Subsection (2)(e)(i)(A)(I).  
 725 (b) The following local taxes shall be distributed to a county, city, or town as provided  
 726 in this chapter:  
 727 (i) the tax imposed by Subsection (2)(a)(ii);  
 728 (ii) the tax imposed by Subsection (2)(b)(ii);  
 729 (iii) the tax imposed by Subsection (2)(c)(ii); and  
 730 (iv) the tax imposed by Subsection (2)(e)(i)(B).  
 731 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the ~~General~~  
 732 ~~Fund~~ Rail Transportation Restricted Account created in Section [72-2-131](#).  
 733 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
 734 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
 735 through (g):  
 736 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
 737 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
 738 (B) for the fiscal year; or



(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the

fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections

(7)(b)(iv)(F) and ~~[(8)(c)(iv)(F)]~~ (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)~~[(c)]~~(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of \$20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

- (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by

the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of \$20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),



and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.



(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#), beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation Investment Fund created in Section [72-2-124](#).

Section 9. Section **72-2-131** is amended to read:

**72-2-131. Rail Transportation Restricted Account -- Grants for railroad crossing safety.**

(1) As used in this section, "eligible entity" means:

(a) a public entity; or

(b) a private entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(2) There is created in the Transit Transportation Investment Fund, created in Section [72-2-124](#), the Rail Transportation Restricted Account.

(3) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) deposits into the account as described in Subsection [59-12-103\(3\)\(c\)](#);

~~[(b)]~~ (c) private contributions;

~~[(c)]~~ (d) donations or grants from public or private entities; and

~~[(d)]~~ (e) interest earned on money in the account.

(4) Upon appropriation, the department shall:

(a) use an amount equal to 10% of the money deposited into the account to provide grants in accordance with Subsection (5);

(b) use an amount equal to 10% of the money deposited into the account to pay:

(i) the costs of performing environmental impact studies in connection with construction, reconstruction, or renovation projects related to railroad crossings on class A,

1018 class B, or class C roads; or  
1019 (ii) the appropriate debt service or sinking fund for the repayment of bonds issued  
1020 under Subsection [63B-31-101](#)(6); and  
1021 (c) use the remaining money deposited into the account to pay:  
1022 (i) the costs of construction, reconstruction, or renovation projects related to railroad  
1023 crossings on class A, class B, or class C roads;  
1024 (ii) debt service related to a project described in Subsection (4)(b); or  
1025 (iii) the appropriate debt service or sinking fund for the repayment of bonds issued  
1026 under Subsection [63B-31-101](#)(5).  
1027 (5) (a) The department may award grants to one or more eligible entities to be used for  
1028 the purpose of improving safety at railroad crossings on class A, class B, or class C roads.  
1029 (b) An eligible entity may use grant money for any expense related to improving safety  
1030 at railroad crossings on class A, class B, or class C roads, including:  
1031 (i) signage; and  
1032 (ii) safety enhancements to a railroad crossing.  
1033 (c) The department shall prioritize, in the following order, grants to applicants that  
1034 propose projects impacting railroad crossings that:  
1035 (i) have demonstrated safety concerns, including emergency services access; and  
1036 (ii) have high levels of vehicular and pedestrian traffic.  
1037 Section 10. **Effective date.**  
1038 This bill takes effect on May 4, 2022, except that the amendments to Sections  
1039 [59-12-103](#) and [72-2-131](#) take effect on July 1, 2022.